

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:13-CV-00192-BR

DAVID RHODES and DARLENE
HOLLAND,

Plaintiffs,

v.

JOHN INGRAM, in his official capacity as
Sheriff of Brunswick County, TIMOTHY
CLEMMONS, TINA EDWARDS, and
WESTERN SURETY COMPANY,

Defendants.

ORDER

TIMOTHY CLEMMONS,

Counterclaim Plaintiff,

v.

DAVID RHODES,

Counterclaim Defendant.

This matter is before the court on defendants John Ingram, in his official capacity as Sheriff of Brunswick County, Timothy Clemmons, Tina Edwards, and Western Surety Company's (collectively "defendants") motion for summary judgment, (DE # 27), and counterclaimant Timothy Clemmons motion for summary judgment, (DE # 29).

Plaintiffs David Rhodes and Darlene Holland (collectively "plaintiffs") filed this lawsuit on 6 August 2013 in Brunswick County Superior Court, North Carolina. (DE # 1-2.) Plaintiffs assert claims pursuant to 42 U.S.C. § 1983, (id. ¶ 84), as well as state law claims of false imprisonment, (id. ¶¶ 91-97), intentional infliction of emotional distress, (id. ¶¶ 98-104), and negligent infliction of emotional distress, (id. ¶¶ 105-113). Timothy Clemmons

(“counterclaimant”) filed a counterclaim against David Rhodes alleging “Defamation/Slander.” (DE # 11, at 18.) Defendants removed the case to this court on 4 September 2013. (DE # 1-1.)

After defendants and counterclaimant filed the instant motions for summary judgment, plaintiffs filed a motion to compel discovery responses, extend discovery deadlines, and deny consideration of the summary judgment motions pursuant to Federal Rule of Civil Procedure 56(d). (DE # 31.) Plaintiffs urged the court to deny the motions for summary judgment “until such time that the Plaintiffs have all evidence to which they are entitled.” (DE # 32, at 17.) Plaintiffs filed the Rule 56(d) motion in lieu of responding to the summary judgment motions. (DE # 37, at 6.) The court subsequently denied as moot plaintiffs’ motion to extend discovery deadlines, referred the motion to compel discovery to U.S. Magistrate Judge James E. Gates, and held the summary judgment motions in abeyance pending disposition of the motion to compel. (DE # 40.) By order dated 10 March 2015, Judge Gates granted in large part plaintiffs’ motion to compel, ordering defendants to serve plaintiffs with supplemental answers and documents in response to several interrogatories and production requests no later than 24 March 2015. (DE # 49.)

In order to give the parties adequate opportunity to retool their dispositive motions and responses in light of any new evidence produced in accordance with Judge Gates’ order, the court DENIES without prejudice defendants’ and counterclaimant’s respective motions for summary judgment. (DE ## 27, 29.) Any renewed dispositive motions shall be filed with the court on or before 23 April 2015.

This 12 March 2015.



W. Earl Britt
Senior U.S. District Judge